255

SUPREME COURT OF THE UNITED STATES.

No. 195.

THE UNITED STATES, APPELLANTS,

vs.

GEORGE W. HAMBLY.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

INDEX.

	Original.	Print.
Proceedings before commissioners	1	1
Petition of claimant	3	2
Deposition of Pablo de la Guerra	4	3
" " M. M. Sexton	5	3
" " John J. Warner	6	3
Espediente	10	5
Map	12 a	7
Translation of Espediente	17	8
Doc. A annexed to deposition of Guerra	21	10
"D," translation of title	23	11
Extracts from record of the sessions of the Dept. Asama	25	12
Translation of record of approval	27	13
Doc. C annexed to deposition of Warner	28	13
"D," translation of conveyance from Orosco to Hambly	32	15
Opinion of commissioners	36	18
Decree of commissioners	37	18
Certificate of secretary	38	19
" " Clerk dist. court	39	19
Proceedings in dist. court	40	19
Notice of appeal	42	20
Petition for review	42	21
Answer to petition	48	24
Order of court	50	25
Clerk's certificate	51	26

GIDEON, Print.

Transcript of the proceedings in case No. 325, George W. Hambly, claimant, vs. The United States, defendant, for the place named "Güejete y Cañada de Palonia."

OFFICE OF THE BOARD OF COMMISSIONERS

To ascertain and settle the private land claims in the State of Cal'a.

Be it remembered, that on this seventh day of September, anno Domini one thousand eight hundred and fifty-two, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of George W. Hambly, for the place named "Güejete y Cañada de Palomia," was presented, and ordered to be filed and docketed with No. 325, and is as follows, to wit:

(Vide page 3 of this Transcript.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

LOS ANGELES, *September* 11, 1852.

In case No. 325, George W. Hambly, for the place named "Güejete y Cañada de Palomia," the deposition of Pablo de la Guerra, a witness in behalf of claimant, taken before Commissioner Harry J. Thornton, was filed.

(Vide page 4 of this Transcript.)

SAN FRANCISCO, *February* 1, 1853.

In the same case the deposition of M. M. Sexton, a witness in behalf of the claimant, taken before Commissioner Hiland Hall, was filed.

(Vide page 5 of this Transcript.)

SAN FRANCISCO, *September* 1, 1853.

In the same case the deposition of J. J. Warner, a witness in behalf of the claimant, taken before Commissioner Thompson Campbell, with document marked "(A.) Thompson Campbell," was filed.

(Vide page 6 of this Transcript.)

SAN FRANCISCO, *September* 23, 1853.

Case No. 325 called; submitted on briefs on both sides, and taken under advisement.

SAN FRANCISCO, *January* 24, 1854.

In the same case Commissioner Alpheus Felch delivered the opinion of the board, confirming the claim.

(Vide page 36 of this Transcript.)

Petition.

To the honorable Commissioners to settle Private Land Claims in California:

The petitioner, George W. Hambly, respectfully shows: That on the 20th day of September, A. D. 1845, Pio Pico, Governor of California, by virtue of authority in him vested, granted to José Maria Orosio the tract of land called "Güejete y Cañada de Palomia," situate in the present county of San Diego, containing three "sitios de ganado mayor," a little more or less, with the boundaries described in the original grant, which is submitted herewith marked "A," with a translation marked "B."

That on the 5th day of February, 1847, the said Orosio, by public act, sold and conveyed the said land to the petitioner, as shown by the original conveyance, which is submitted herewith marked "C," with a translation marked "D."

That the aforesaid grant was duly approved, and the possession of the land given in due form; and that the said Orosio and the petitioner have been for the last seven years, and the petitioner now is, in the occupation and possession of the land aforesaid.

That he knows of no conflicting claim.

That he relies for confirmation of title upon the original papers submitted herewith, upon the records and minutes in the archives of the former government of California, and upon such other and further proofs as he may be advised are necessary.

Wherefore, he prays the commissioners to confirm to him the aforesaid tract of land.

By his attys.:

(Signed) HALLECK, PEACHY & BILLINGS.

Filed in office, September 7th, 1852.

(Signed) GEO. FISHER, *Secretary.*

Deposition of Pablo de la Guerra.

OFFICE OF THE CALIFORNIA LAND COMMISSION,
LOS ANGELES, *Sept'r 10th*, 1852.

On this day, before me, Harry J. Thornton, one of the commissioners for ascertaining and settling private land claims in California, came Pablo de la Guerra, a witness produced in behalf of the claimant, George W. Hambly, whose petition is No. 325 on the docket of the board, and was duly sworn.

His evidence being given in English, the U. S. law agent was notified, and attended.

Questions asked by claimant's counsel.

1st question. What is your name, age, and place of residence?

Answer. My name is Pablo de la Guerra; I reside in Santa Barbara, and have lived in California all my life. My age is about 32 years.

2d question. Examine the papers now before you and marked "A," and filed with the petition in this case, and say if the signatures are genuine, and the document genuine and original.

Answer. I am acquainted with the signatures of Pio Pico and José Maria Covarrubias. Their signatures to this paper are genuine, and the paper is, to the best of my belief, genuine and original.

(Signed) PABLO DE LA GUERRA.

U. S. law agent present.

Sworn to and subscribed before me, this 10th of Sept., 1852.

(Signed) HARRY J. THORNTON, *Comr.*

Filed in office, Sept. 11th, 1852.

(Signed) GEO. FISHER, *Secretary.*

Deposition of M. M. Sexton.

SAN FRANCISCO, *Feb.* 1, 1853.

On this day, before Commissioner H. Hall, came M. M. Sexton, a witness in behalf of the claimant, George W. Hambly, petition No. 225, and was duly sworn—his evidence being given in English. The United S. as'te law agent was present.

My name is M. M. Sexton; my age is 32 years; I reside in San Diego county, and have lived in California 4 years.

I know the rancho belonging to G. W. Hambly, called Cañada de Palomia, and formerly granted to one Orosio. I have occupied this rancho about 2 years; we have a house, cattle, and hogs on it. My partner, who is now dead, leased this land of one Brown, and Brown leased of Hambly, I think, in 1847. This rancho is in San Diego county.

(Signed) M. M. SEXTON.

Sworn and subscribed before me.

(Signed) HILAND HALL, *Comr.*

Filed in office, Feb. 1st, 1853.

(Signed) GEO. FISHER, *Secretary.*

Deposition of John J. Warner.

OFFICE OF COMMISSIONERS OF LAND CLAIMS IN CALIFORNIA.

This day, before Comr. Thompson Campbell, came J. J. Warner, a witness in behalf of the claimant, George W. Hambly, No. 325, who, after being duly sworn, deposed as follows:

What is your name, age, and place of residence?

My name is J. J. Warner; I am forty-five years of age; San Diego, and have lived in California twenty-one years.

Look on the paper now shown you, and marked exhibit "A," and annexed to the deposition of Pablo de la Guerra, and say if you know the land described in that paper; where it is situated, and what you know about its occupation.

I know said land; it is situated in the county of San Diego, in the vicinity of San Pascual, and about forty miles from the town of San Diego, in the interior, say thirty miles from the sea. Previous to the time California was occupied by the forces of the United States, I think in 1845, I was on the ranch to receive a lot of cattle; it was then occupied by José Maria Orosco, and José Maria Alvarado; they had a house upon it, some horses, and brood mares, and about five hundred head of cattle. Alvarado was a brother-in-law of Orosco—a member of the same family.

I am not positively certain that Alvarado was in possession of the land.

You will examine paper marked "B," and say whether that is the signature of José Maria Orosco, Henry D. Fitch, Pedro Pablo Pancio, Miguel de Pedraona, Edward F. Beale, and Juan J. Warner, and say whether these signatures are genuine and signed in your presence.

They are original, and were signed in my presence; and the signature of Juan J. Warner is my own signature.

The papers were executed at the time they purport to have been executed. I believe the lands have been occupied up to the present time by Mr. Brown, and by Mr. Sexton holding under Brown; both holding under lease from Hambly.

Do you know whether there was any legal surveyor, under the Mexican government, in that part of California, after the date of this grant?

I do not know of there having been any. I have never, since I have been in California, or during that period, seen any instrument by which an accurate survey could have been made.

Questions by Law Agent.

Do you know whether it was contemplated by the Mexican authorities, that grants at any time subsequent to their issue were to surveyed scientifically, by surveyors appointed by the government?

I do not think the authorities of California contemplated a future survey, subsequent to juridical possession, as necessary to give validity to the title.

Do you mean to be understood to say, that it never was contemplated, and the government had no right to provide for a system of accurate surveys after judicial possession?

I do not intend to question the right of the government, but believe it was the design of the government to have accurate surveys made at some future time. I frequently heard the authorities speak of the matter, and that their opinion was, there would be a survey made at some future time, under the authority of the government.

I desire to state, that this opinion of the authorities grew out of the fact of the impossibility to obtain those surveys, which the law required to have been made for the formation of a desseno or plan, to be presented at the time of application for lands.

Was there no alcalde, judge, or other officer, in the jurisdiction in which this land was situated, competent to give juridical possession after September, 1845, and previous to the 7th of July, 1846?

I believe there were authorities to give possession, as competent as the authorities of California generally were. I would also state, that it was almost impossible to get the authorities at San Diego to go out to that country to give possession; but I do not know that any application was ever made to them in this case.

Did you ever know the authorities to refuse to give possession when the fees were tendered to them?

I never knew them to refuse in such cases; but I have known them to defer the time, and delay.

When was the house built on the land claimed in this case, and when was it inhabited?

I do not know when it was built; but it had been built some considerable time before I visited the place, which was in 1845 or 1846. Orosco was living there with his family at the time, and they had land in cultivation; I think about twenty-five acres in wheat and barley.

(Signed) J. J. WARNER.

Sworn to and subscribed before me, this 1st day of September, A. D. 1853.

(Signed) THOMPSON CAMPBELL, *Commissioner.*

Filed in office, September 1st, 1853.

(Signed) GEO. FISHER, *Secretary.*

We agree that this duly certified copy of Espediente from the records in the office of the Surveyor General be filed and received as evidence in this case.

HALLECK, PEACHY and BILLINGS,
Atty's for Claimant.
ROBERT GREENHOW,
Asote. Law Agent.

1854.

Espediente promovido por D. José M'a Orosco del terreno nombrado Güejetos y Palomeas.

468.

Año de 1845.—*Jurisdiccion del Partido de S. Diego.*

Espediente formado p'r la solicitud del paraje nombrado Cañada de Palomea p'r el C. José Maria Orosco.

Ex'mo Sor. Gobernador:

José Maria Orosco, Mejicano, por nacimiento y becino de la jurisdiccion de San Diego, ante la recta, Justicia de V. E. en la mas bas-

tante forma y como mi derecho combenga digo, que deseando asegurar la subsistencia, mia y la de mi familia por medio de la agricultura, y cr a de ganado, he exsaminado un terreno propio para el efecto, compuesto de tres sitios, comprendido en los de la Mission de San Luis Rey, distante de este establicim'to como doce leguas poco mas ó maros conocido por Güejete y Cañada de Palomea, esplicando el adjunto diseño en formacion de aguajes y montes; y estando dicho terreno baldio lo denuncio en debida forma, para que si V. E. lo tiene á bien se mi adjudique en

Propiedad. Por tanto.

ANGELES, *Agosto* 4 *de* 1845.

Pase al encargado, de la Mission de S'n Luis Rey, para que circumstanciá damente informé, y en seguida pase al Sor. Sub Prefecto del partido de S'n Diego, p'a que omita el sayo.

PICO.

A V. E. suplico decrete de conformidad lo que recibiri gracio juro & a subiendose admitir la presente en papel comun por falta del segado que corresponde.

JOSE MARIA OROSCO.

ANGELES, *Agosto* 4 *de* 1845.

El terreno q. solicita el ciudano José Maria Orosco, ce alla baldio y nunca lo a ocupado la Mission lo sieno que es presa en esta, solicitu tiene el nombre de Güejete y la Cañada Palomea, es cuanto puedo y en formar.

JUAN M'A MARRON.

S'N LUIS REY, 17 *de Agosto de* 1845.

Ex'mo Señor:

Atento al Superior Decreto marginal de V. E. de 4 de este mes q. la Cañada, nombrada Palomea, q. solicita el C. José M'a Orosco; esta apareces colindante segun el diseño presentado con la mesa de Paino, Potreros de Pauma, y Cerramias, es pareje valdio y con ninguna ocupacion no presenta obstaculo a su concession, sin embargo de lo espuesto, V. E. resolvera lo q. fuere de su superior agrado.

S. ARGUELLO.

S. DIEGO, *Agosto* 28 *de* 1845.

ANGELES, *Setiembre* 20 *de* 1845.

Vista la peticion con que principio este, espediente los informes del encargado de la Mission de S'n Luis Rey, y del S'or Sub Prefecto del Partido de S. Diego, con todo lo demas que considerar y ver convino; de conformidad con las leyes y reglamentos de la materia *de la materia* declara dueño en propriedad del terreno nombrado Güejete y Cañada de Palomea, en estension de tres sitios de ganado mayor, poco mas ó menos como esplica el diseño respectivo, de conformidad con los leyes

y reglamentos de la materia, á D'n José Maria Orosco. En consecuencia librese el correspondente titulo, tomese razon de el en el libro respectivo y dirigase este Espediente á la Ex'ma Asemblea Departamental para su aprovacion.

Pio Pico, Gobernador interino de las Californias, asi lo mande decrete y firmé, de que doy fé.

(*For map, see original, between pages* 12 *and* 13.)

Pio Pico, 4 *a.*—Por cuanto el Ciudadano José Maria Orosco, ha pretendido para su beneficio personal y el de sus familias, el terreno conocido con los nombres de Güejete y Cañada de Palomea, colindante con la Mesa de Pamo, Potreros de Pauma y Serranias, practicadas previamente las diligencias y averiguaciones concernientes segun lo dispuesto por leyes y reglamentos de la materia, usando de las facultades que ni son conferidas á nombre de la nacion Mejicana, en decreto de este dia he venido en concederle el espresado terreno declarandole la propriedad de él por las presentes letras, á reserva de la aprovacion de la Ex'ma, Asemblea departamental, y bajo las condiciones siguientes.

1 *a.*—Poebra cercarlo sin prejudicar las travesias, caminos y servidumbres; lo disfratará libre y esclusiva, mente destinandolo al uso y cultivo que mas le acomode; pero dentro de un año fabricava casa y estara habitada.

2 *a.*—Solicitara del clues respectivo que cedé la posecion juridica en virtud de este despacho por el cual se demarcaran los linderos poniendo las majonéras necesarias.

3 *a.*—El terreno de que se hace donacion es de la estencion de tres sitios de ganado mayor, poco mas ô menos segun esplica el diseño que obra en el espediente respectivo.

En consecuencià mando que teniendose el presente titulo por firme y valedero se tome razon de el en el libro respectivo y se entregue al interesado para su resguardo y de mas fine.

Dado en la Ciudad de los Angeles, en este papel comun, por no haber del sallado que corresponde.

De â veinte y tres de Sitiembre de mil ochocientos cuarenta y uno.

Queda tomadá razon en el libro â que corresponde.

Angeles, Mayo 8, de 1846.

Dado cuentá en sesion de hoy con este Espediente ála Ex'ma Asembla Departamental, se mando pasar á la comision de terrenos valdios.

PIO PICO, *Presid'te.*

AGUSTIN OLVERA, *D. S.*

E. S:

La comision de terrenos valdios á examinado con detencion el presente Exped'te promosido p'r el C. José Ma. Orosco del terreno de Güejete y Palomea q. le fué concedido p'r el Sup'r Gob'o Dep'l con arreglo á las leyes de la materia, p'r tanto pone á la deliveracion de V. E. la proposicion siguiente.

Se aprueba la concesion hecha al Ciud'no José M'a Orosco del parage conocido Güejete y Cañada de Palomea en la estencion de tres sitios de ganado mayor en la jurisdiccion de S. Diego segun titulo librado con fha 23 de 7'bre, ult'o con arreglo á la ley de 18 de Ag'to, de 1824, y al Art'o 5'o del Reglamento de 21 de No'bre, de 1828.

Sala de comisiones en la Ciudad de los Angeles, Mayo 26, 1846.

S. ARGUELLO.

Angeles, Junio 3 de 1846.

En sesion de este dia aprobo, la Ex'ma Asemblea Departamental la proposicion del dictamen.

OFFICE OF THE SURVEYOR GENERAL
OF THE UNITED STATES FOR CALIFORNIA.

I, John C. Hays, surveyor general of the United States for the State of California, and as such, having in my office and in my charge and custody a portion of the archives of the former Spanish and Mexican Territory or Department of Upper California, by virtue of the power vested in me by law, do hereby certify, that the 11 preceding and hereunto annexed pages of tracing paper, numbered from one to eleven inclusive, exhibit a true and accurate copy of a certain document now on file and forming a part of the said archives, in this office.

In testimony whereof, I have hereunto signed my name officially and caused my seal of office to be affixed, at the city of San Francisco, this eighth day of November, 1853.

JOHN C. HAYS,
U. S. Surveyor General for California.

Filed in office, Nov. 12, 1853.
(Signed) GEO. FISHER, *Sec'y.*

Translation of Espediente.

1845.

Espediente proved by Don José Maria Orosco for the land called "Güejeto y Polamia."

468.

Year 1845.

Jurisdiction of the Partida of San Diego.

Espediente formed by petition for the place called "Cañada de Palomia," by citizen José Maria Orosco.

MOST EXCELLENT SENOR GOVERNOR:—José Maria Orosco, a Mexican by birth and resident of the jurisdiction of San Diego, before the

upright justice of your excellency, and in due and rightful manner represent: That to secure my own subsistence and that of my family, by means of agriculture, and the raising of cattle, I have examined a tract of land suitable for that purpose, composed of three square leagues, and comprehended in the of the Mission of San Luis Rey, distant from that establishment about twelve leagues, little more or less, known as "Güejeto y Cañada de Polamia," the annexed map explaining its formation of springs and brushwood; and said land being vacant, I denounce it in due form, that your excellency may be so good as to grant it to me in ownership.

Wherefore, I pray you to decree accordingly, by which I shall receive favor, &c.

Be so good as to admit this on common paper, for want of the corresponding stamped paper.

(Signed) JOSE MARIA OROSCO.

Angeles, August 4th, 1845.

ANGELES, *Oct. 4th*, 1845.

Pass this to the person in charge of the Mission of San Luis Rey, in order that he may report circumstantially, and afterwards also pass it to the sub-prefect of the Partida of San Diego, in order that he may make his report.

(Signed) PICO.

The land which citizen José Maria Orosco is vacant, and the Mission never occupied that which is expressed in these bounds, which has the name of "Güejeto y Cañada Palomia;" this is what I can report.

JUAN MARIA MARRON.

San Luis Rey, August 17th, 1845.

MOST EXCELLENT SENOR: In compliance with the superior marginal decree of your excellency, of the 4th inst., respecting the "Cañada de Palomia," which citizen José Maria Orosco solicits, it appears, according to the map presented, to bound on the Mesa de Paino, Potreros de Pauma, and the Hills (Serranias;) it is a vacant place, and has no occupation; there is no obstacle presented to the grant; but undoubtedly your excellency will determine what may appear proper to your excellency.

S. ARGUELLO.

San Diego, Aug. 28th, 1845.

ANGELES, *September 20th*, 1845.

Having seen the petition with which this Espediente begins, the reports of the person charged with the Mission of San Luis Rey and of the sub-prefect of the Partida of San Diego, with all else proper to be presented and seen, in conformity with the laws and regulations on the matter, I declare Don José Maria Orosco owner in property of the land called "Güejeto y Cañada de Palomia," in extent three square leagues,

E. S:

La comision de terrenos valdios á examinado con detencion el presente Exped'te promosido p'r el C. José Ma. Orosco del terreno de Güejete y Palomea q. le fué concedido p'r el Sup'r Gob'o Dep'l con arreglo á las leyes de la materia, p'r tanto pone á la deliveracion de V. E. la proposicion siguiente.

Se aprueba la concesion hecha al Ciud'no José M'a Orosco del parage conocido Güejete y Cañada de Palomea en la estencion de tres sitios de ganado mayor en la jurisdiccion de S. Diego segun titulo librado con fha 23 de 7'bre, ult'o con arreglo á la ley de 18 de Ag'to, de 1824, y al Art'o 5'o del Reglamento de 21 de No'bre, de 1828.

Sala de comisiones en la Ciudad de los Angeles, Mayo 26, 1846.

S. ARGUELLO.

Angeles, Junio 3 de 1846.

En sesion de este dia aprobo, la Ex'ma Asemblea Departamental la proposicion del dictamen.

OFFICE OF THE SURVEYOR GENERAL
OF THE UNITED STATES FOR CALIFORNIA.

I, John C. Hays, surveyor general of the United States for the State of California, and as such, having in my office and in my charge and custody a portion of the archives of the former Spanish and Mexican Territory or Department of Upper California, by virtue of the power vested in me by law, do hereby certify, that the 11 preceding and hereunto annexed pages of tracing paper, numbered from one to eleven inclusive, exhibit a true and accurate copy of a certain document now on file and forming a part of the said archives, in this office.

In testimony whereof, I have hereunto signed my name officially and caused my seal of office to be affixed, at the city of San Francisco, this eighth day of November, 1853.

JOHN C. HAYS,
U. S. Surveyor General for California.

Filed in office, Nov. 12, 1853.
(Signed) GEO. FISHER, *Sec'y.*

Translation of Espediente.

1845.

Espediente proved by Don José Maria Orosco for the land called "Güejeto y Polamia."

468.

Year 1845.

Jurisdiction of the Partida of San Diego.

Espediente formed by petition for the place called "Cañada de Palomia," by citizen José Maria Orosco.

MOST EXCELLENT SENOR GOVERNOR:—José Maria Orosco, a Mexican by birth and resident of the jurisdiction of San Diego, before the

upright justice of your excellency, and in due and rightful manner represent: That to secure my own subsistence and that of my family, by means of agriculture, and the raising of cattle, I have examined a tract of land suitable for that purpose, composed of three square leagues, and comprehended in the of the Mission of San Luis Rey, distant from that establishment about twelve leagues, little more or less, known as "Güejeto y Cañada de Polamia," the annexed map explaining its formation of springs and brushwood; and said land being vacant, I denounce it in due form, that your excellency may be so good as to grant it to me in ownership.

Wherefore, I pray you to decree accordingly, by which I shall receive favor, &c.

Be so good as to admit this on common paper, for want of the corresponding stamped paper.

(Signed) JOSE MARIA OROSCO.

Angeles, August 4th, 1845.

ANGELES, *Oct. 4th*, 1845.

Pass this to the person in charge of the Mission of San Luis Rey, in order that he may report circumstantially, and afterwards also pass it to the sub-prefect of the Partida of San Diego, in order that he may make his report.

(Signed) PICO.

The land which citizen José Maria Orosco is vacant, and the Mission never occupied that which is expressed in these bounds, which has the name of "Güejeto y Cañada Palomia;" this is what I can report.

JUAN MARIA MARRON.

San Luis Rey, August 17th, 1845.

MOST EXCELLENT SENOR: In compliance with the superior marginal decree of your excellency, of the 4th inst., respecting the "Cañada de Palomia," which citizen José Maria Orosco solicits, it appears, according to the map presented, to bound on the Mesa de Pamo, Potreros de Pauma, and the Hills (Serranias;) it is a vacant place, and has no occupation; there is no obstacle presented to the grant; but undoubtedly your excellency will determine what may appear proper to your excellency.

S. ARGUELLO.

San Diego, Aug. 28th, 1845.

ANGELES, *September 20th*, 1845.

Having seen the petition with which this Espediente begins, the reports of the person charged with the Mission of San Luis Rey and of the sub-prefect of the Partida of San Diego, with all else proper to be presented and seen, in conformity with the laws and regulations on the matter, I declare Don José Maria Orosco owner in property of the land called "Güejeto y Cañada de Palomia," in extent three square leagues,

little more or less, as the respective map explains, (in conformity with the laws and regulations in the matter.)

Consequently issue the corresponding title, take note of it in the respective book, and direct this Espediente to the most excellent departmental assembly for its approbation.

Pio Pico, governor *ad interim* of the Californias, thus ordered, decreed and signed, of which I certify.

(Here follow map and copy of title.)

ANGELES, *May 8th*, 1846.

In session of this day this Espediente taken up and passed to the committee on vacant lands.

PIO PICO, *President.*
AUGUSTIN OLIVERA,
Dey'ty Secretary.

E. S.

The committee on vacant lands has examined with attention the present Espediente moved by citizen José Maria Orosco, for the land of "Güejeto y Polamia," which was granted by the superior government departmental in conformity with the laws on the matter; wherefore it submits for the deliberation of your excellency the following proposition:

"Approved the grant made to citizen José Maria Orosco of the place called "Güejeto y Cañada de Palomia," to the extent of three square leagues, in the jurisdiction of San Diego, according to the title issued on the 23rd of September last in conformity with the law of August 28th, 1824, and Art. 5 of Regulation of Nov. 21, 1828.

Hall of the committee in the city of Los Angeles, May 26, 1846.

S. ARGUELLO.

Angeles, June 3, 1846.

In session of this day the most excellent assembly departmental approved the proposition of the report.

Filed in office November 12, 1853.

(Signed) GEO. FISHER,
Secretary.

Document A, annexed to the Deposition of P. de la Guerra.

Pio Pico, primer vocal de la Ex'ma Asemblea y Gobernador del Departamento de las Californias.

Por cuanto el Ciudadano José Maria Orosco la pretendido para su beneficio personal y el de su familia el terreno conocido con el nombre de Guejeto y Cañada de Palomea, colindante con la Mesa de Pamo, Potreros de Pauma y Serranias; practicados previamente las diligencias y averiguaciones concernientes segun lo despuesto por leges y reglamentor de la materia, usando de las facultades que me son conferidas á nombre de la nacion Mejicana, en decreto de este dia he veni do en

concederle el espresado terreno declarandole la propriedad de el por las presentes le toas, á reserva de la aprobacion de la Ex'ma Asemblea Departamental, y bajo las condiciones siguientes.

1 *a*.—Podra cercarlo sin perjudicar las travesias, caminos y servidumbres; lo disfrutara libro y esclusivamente destinandolo al uso y cultiva que mas acomode; pero dentro de un año fabricara en él casa y estara habitada.

2 *a*.—Solicitara del jues respectivo que le dé la posecion juridica en virtud de este despacho por el cual se demarcarán los linderos, poniendo las mojoneras necesarias.

3 *a*.—El terreno de que se hace donacion es de la estencion de tres sitios de ganado mayor, poco mas ô menos segun esplica el diseño que obra en el Espediente respectivo.

En consecuencia mando que teniendose el presento titulo por firme y valedero, se tomo razon de él en el libro á que corresponda y se entregue al interesado para su resguard y demas fines. Dacto en la Ciudad de los Angeles, en este papel, comun por no haber del sellado que corresponde, á veinte de Setiembre de mil ochocientos cuarenta y cuico.

PIO PICO,
JOSE MA. COVARRUBIAS,
Scr'o.

Queda tomada razon de este Superior Despacho en el libro respectivo.

ANGALES.

Fha ut suprà.

COVARRUBIAS.

Filed in office, Sept. 11, 1852.
(Signed.) GEO. FISHER,
Sec'y.

D.

Translation of Title.

Pio Pico, first vocal of the most excellent assembly, and governor of the department of the Californias.

Whereas citizen José Maria Orosco has, for his own personal benefit and that of his family, petitioned for the land known by the name of "Güejete and Cañada de Palomia," bounded by the Mesa de Pamo, Potreros de Pauma, and the mountains, the proper measures and examinations being previously made as required by laws and regulations on the matter, using the powers which are conferred on me in the name of the Mexican nation in decree of this day: I have granted to him the aforesaid land, declaring to him the ownership of it by these present letters, subject to the approval of the most excellent departmental assembly, and under the following conditions:

1st. He may enclose it without prejudice to the crossings, roads, and servitudes; he may enjoy it freely and exclusively, making such use

and cultivation of it as he may see fit; but within one year he shall build a house on it, and it shall be inhabited.

2nd. He shall request the proper magistrate to give him the juridical possession in virtue of this title, by whom the boundaries will be marked out, placing the necessary bounds.

3rd. The land of which donation is made, is of the extent of three square leagues, a little more or less, as shown by the map which exists in the respective expediente.

In consequence, I order, that the present title being held as firm and valid, note be made of it in the corresponding book, and it be delivered to the party interested for his security and other purposes.

Given in the city of Los Angeles, on this common paper, for want of the stamped, which corresponds, on the twentieth of September, one thousand eight hundred and forty-five.

(Signed) PIO PICO,
(Signed) JOSE MA. COVARRUBIAS,
Secretary.

Note has been taken of this superior title in the respective book. Angeles, date as above.

(Signed) COVARRUBIAS.

Filed in office September 7th, 1852.

(Signed) GEO. FISHER,
Secretary.

Extracts from the Record of the Sessions of the Dept. Asama.

We agree that the following certified copy, from the archives of the surveyor general's office, be filed and received as evidence in this case.

HALLECK, PEACHY & BILLINGS,
Atty's for Claimant.

ROBERT GREENHOW, *Ass't Law Agent.*

Sesion del dia 3 *de June, de* 1846.

Aprobada la acta del dia 15 de Mayo, pasado se le dio segunda lectura al dictamen de la Comision de Propios y Arbitrios que corre en la representacion de algunos vecinos de Santa Barbara, y puesto á discusion despues de la suficiente, se acordo volviese á la comision para que la reforme á virtud de haberlo asi pedido el presidente de ella portener en su poder el bando a que se refieren los solicitantes.

Le dio cuenta con lo siguiente.

En el de Don José Ma. Orosco, se aprueba a la concesion hecha al Ciudadano José Ma. Orosco del paraje conocido Güejeto y Cañada de Palomea, en la estencion de tres sitios de ganado mayor en la jurisdiccion de San Diego, segun titulo librado con fha 23 de Sitiembre ultimo, con arreglo á la ley de 18 de Agosto de 1824, y Articulo 5o, del Reglamento de 21 de Noviembre, de 1828.

PIO PICO, *Presid'te.*
AGUSTIN OLVERA, *D. S.*

OFFICE OF SURVEYOR GENERAL
OF THE UNITED STATES FOR CALIFORNIA.

I, John C. Hays, surveyor general of the United States for the State of California, and, as such, having in my office and in my charge and custody, a portion of the archives of the former Spanish and Mexican Territory or Department of Upper California, by virtue of the power vested in me by law, do hereby certify that the four preceding and hereunto annexed pages of tracing paper, numbered from one to four inclusive, exhibit a true and accurate copy of extracts from a certain unbound book, entitled, "1846—*Cuaderno de Sesiones de la Exma. Asamblea*," and purporting to be a record of the sessions of the departmental assembly; said book now being on file, and forming part of the said archives in this office.

In testimony whereof, I have hereunto signed my name offi-
[L. S.] cially, and caused my seal of office to be affixed at the city of San Francisco, this ninth day of November, A. D. 1854.

JOHN C. HAYS,
U. S. Surveyor General for California.

Filed in office Nov. 12, 1853.
(Signed) GEO. FISHER, *Sec'y.*

Translation of Record of Approval.

Session of June 3d, 1846.

Approved the act of May 15th last, &c.

In the Espediente of Don José Ma. Orosco.

Approved the grant made to citizen José Ma. Orosco, of the place known as Güejetos y Cañada de Palomia, in extent three square leagues, (sitios de ganado mayor,) in the jurisdiction of San Diego, according to the title issued on the 23d of September last, in conformity with the law of August 18th, 1824, and article 5 of the regulation of November 21st, 1828.

PIO PICO, *President.*

AUGUSTIN OLVERA, *Deputy Secretary.*

Filed in office Nov. 12th, 1853.
(Signed) GEO. FISHER, *Sec.*

C.

Conveyance B.

Annexed to the deposition of J. J. Warner.

En el Pueblo de San Diego de la Alta California, á los cinco dias del mes de Febrero de mil ochocientos cuarenta y siete ante mi el Ciudadano Henrique D. Fitch, Alcalde segundo de este Pueblo y sin jurisdiccion y por ante los testigos de mi asistencia con quienes actuo

por receptoria amas de los instrumentales, que al fin se nominaron, comparecio Don José Maria Orosco, de esta vecindad á quien doy fé conosco y dijo.

Que con conocimiento de su esposo y en virtud de haver celebrado, un contrato con George W. Hambly, del Estado de Connecticut, de Nuevo London, en los Estados Unidos de America, quien tambien estubo presente; en que se vendio todo el terreno de su propriedad del paraje conocido, con el nombre de Güejeto y Cañada de Palomia, colindante con la mesa de Pamo, Potrero de Pauma, y Serranias, cuyo terreno es de tres sitios de ganado mayor, poco mas ô menos, como lo acredita el titulo espedido por el Ex'mo S'or Gobernador del Departamento, Don Pio Pico con fecha de veinte de Setiembre de mil ochocientos cuarenta y cinco, en la cantidad de ocho cientos pesos, plata recibida por mi á mi entera satisfacion, unico precio que lo estima sin que ninguno le haya ofrecido ni ha encontrado quien le dé mas, y si mas vale lo cede y dona á favor del espresado S'or Hambly, cono de voluntad libre espontanea suya y de su repetida esposa sin, que para le contrario se pueda proceder por ninguna ley ni titulo pues de todos que le favoriscan, renuncia y se obliga y compromita desde ahora por si y a nombre sus herederos sucesores, y de quien de ellos hubiere titulo roz, y causa en cuales quiera manera desde este momento cede traspase y dá en enagenacion perpetua por juro de heredad para siempre jamas al referido George W. Hambly, y á los sugos el derecho de propriedad que tiene en el referido terreno entregandole el correspondiente, y referido titulo cuyo terreno declara de no tenerlo vendido enagenado ni empeñado, y que esta libre de tributo memoria capellania, vinculo fianza y de otro gravamen real perpetua y espreso y como, tal se lo cede y traspasa y que desde hoy en adalante para siempre se, desaparece desiste quita y aparte á sus herederos y sucesores del dominio, propriedad, titulo, voz, recurso y otro cuales quiera derecho, que le competa al referido terreno y lo traspasa con las acciones reales y personales mistas, y directas y ejecutivas al y en el referido S'or Hambly, y en quien su persona representa para que lo poser, cambio enagene y disponga de ellá á su eleccion como de coso suya adquirida con legitimo y justo titulo le confiere poder irrevocable, con libre y franca y general administracion y sele constituya procurador, actor en su propria causa para que de su autoridad ó judicialmente entre y se apodere, del mencionado terreno, y de el tome y aprendera real tenencion y posecion, que por derecho le competa y para, que no necesite tomarlo pide se le dé copia autorizada de la presente, con la cual sin otro acto de aprencion ha de servisto haberlo tomado, aprendido y transferidole y en el interno se constituye inquilin tenedor y poseedor, en legal forma, y se obliga a que el referido terreno será cierto y seguro y efectivo y que nadic le inquietará, ni maera pleito sobre su propriedad gose y disfrute, ni contra ella procura gravamen alguno, y si se le inquietare ô moviere, luego que el otorgante ó sus herederos y sucesores seau requeridos conforme á derecho saldran á la defensa en todas. Instancias y tribunales hasta ejecutoriarles y dejar al S'or Hambly, y

204

los suyos en libro uso y quieta pacifica posecion, y no pudiendo conseguirlo se darán otro igual en valor, y en defecto restituira su importe las mejores utiles precios, y voluntarios que á la razon tenga el mayor valor ô estimacion que con el tiempo adquiera y de toda las costas, gastos y menos cabos que se siguieron i inorgaren por todo lo cual, se les ha de poder ejecutar, en virtud de este escritura y juramento del que lo posea ô de quien le representa en quien de fiere su importe y le releva de otra prueba; y á la observancia de todo lo referido obliga el otorgante su persona, bienes habidos y por haber, y con ellos se someta y renuncia las leyes de su favor y defensa con la general de derecho en forma, y confia amplio poder á los S'res, jueces que de este negocio puedan conocer para, que lo compelan apremian por via ejecutiva â su cumplimiento como por sentencia pasada, definitiva en autoridad de cosa juzgada consentida y sin otro recurso, y por tal las recibe y lo firmo con migo, y los de mi asistencia siendo los instrumentales, los Ciudadanos Miguel de Pedrorena, Edwardo Beale, Juan Warner.

H. D. FITCH,
JOSE MARIA OROSCO.

Assista.
PEDRO PABLO PONCIO.
Asta.
JOSEPH F. SNOOK.
Instrumental.
MIGUEL DE PEDRORENA.
Instrumental.
JUAN J. WARNER.
Instrumental.
EDWARD BEALE,
Lieut. U. S. Navy.

En la misma fha estando presente Doña Guadalupe Alvarado, esposa del otorgante José Ma. Orosco, y siendo impuesta del contrato celebrado por su esposo dijo que era por su voluntad de ella.

H. D. FITCH.

JUAN J. WARNER,
MIGUEL DE PEDRORENA.
PEDRO PABLO PANCIO.

Protocol de la venta del parage de Guejeto, por J. José Ma. Orosco á George. W. Hambly.
Filed in office, Sept. 7th, 1852.
(Signed) GEO. FISHER, *Sec'y.*

D.

Translation of Conveyance from Orosco to Hambly.

In the town of San Diego, in Upper California, on the fifth day of the month of February, eighteen hundred forty-seven, before me,

citizen Henrique D. Fitch, 2d alcalde of this town and its jurisdiction, and before the witnesses, with whom I act in virtue of my office, besides the witnesses to the instrument, who will at the end be named, appeared Don José Maria Orosco, of this neighborhood, whom I certify I know, and said: That with the knowledge of his wife, and in virtue of having executed a contract with George W. Hambly, of the State of Connecticut, city of New London, in the United States of America, who was also present, in which he sold all the land of his ownership in the place known by the name of "Güejeto," and Cañada de Palomea—bounded by the "Mesa de Pamo," "Potrero of Pauma," and the mountains; which land contains three square leagues, a little more or less, as shown by the title issued by his excellency the governor of the department, Don Pio Pico, with date, September 20th, 1845, for the sum of eight hundred dollars cash, received by me to my entire satisfaction—the only price it is worth, without any one offering more, or having found any one who would give more; and if it is worth more, he cedes and donates it to the aforesaid Senr. Hambly, as of his own free and spontaneous will. and that of his said wife, so that nothing to the contrary can be proceeded to by any law or title; for he renounces all that may favor it; for he binds and compromises himself, and in the name of his heirs, successors, and of whosoever of them may have title, voice, and claim in any manner, from this moment he conveys, transfers, and gives in perpetual alienation, with the right of inheritance forever, to the aforesaid George W. Hambly, and to his, the right of ownership which he has in the land referred to, delivering to him the corresponding and aforesaid title; which land he declares he has not sold, alienated or pledged, and that it is free from all tribute, religious and charitable tax, entail, pledge, and other incumbrance, real, perpetual, and expressed, and as such he conveys and transfers it; and from henceforth forever he dispossesses himself and desists, takes away and separates from his heirs and successors the dominion, ownership, title, voice, recourse, and any other right which may pertain to him in the aforesaid land, and he transfers it with the actions real and personal, mixed, direct, and executive, to and in the aforesaid Senor Hambly, and in whoever may represent his person, that he may possess, exchange, alienate, and dispose of it at his pleasure, as of his own property, acquired with just and legitimate title; he confers on him irrevocable power, with free, full, and general administration, and he constitutes him his attorney in fact in his own cause, that either of his own authority, or juridically, he may enter upon and take possession of the aforesaid land, and take and hold the real tenure and possession of it, which by right belongs to him; and that he may not need to take, he prays that an authenticated copy of this present be given to him, by which, without any other act of taking, it will be seen that he has taken and seized it, and that it has been transferred to him; and in the mean time he constitutes himself his tenant and temporary possessor in legal form; and he binds himself that the said land shall be certain,

sure, and effective, and that nobody shall molest him, or bring suit against his ownership, enjoyment, and benefit; neither shall any incumbrance appear against it; and if he should be molested or suit brought, so soon as the vendor, his heirs, and successors be called upon in conformity with law, they will come forward to the defence, in all courts and tribunals, until they obtain judgment in their favor, and leave Señor Hambly and his, in the free use, and quiet and peaceable possession; and not being able to do so, he will give him another equal in value, and in default of such, he will restore its value, the improvements, useful, necessary, and voluntary, which at the time he may have, the greatest value or estimation which, with time, they might acquire, and of all the costs, expenses, and damages which may follow or accrue to him; all which shall be executed upon them in virtue of this writing and the oath of him who may possess it, or of whoever may represent him, to whom he leaves it to fix the value, and he relieves him from further proof. And to the observance of all the foregoing, the vendor binds his person and property, present and future, and with them submits himself, and renounces the laws in his favor and defence, with the legal exceptions in form, and he confers ample power on the magistrates, who of this matter ought to take cognizance, that they may force and compel him to its fulfilment by the via ejecutiva, as with a sentence definite, passed in authority of res judicata, consented to and without other recourse; and as such he receives them, and he signed it with me, and those of my assistance, the witnesses to the instrument being citizens Miguel de Pedrorena, Edward Beale, Juan Warner.

(Sgd.) H. D. FITCH,
(Sgd.) JOSE MARIA OROSCO.

Assisting Witnesses:
(Sgd.) PEDRO PABLO PONCIO,
(") JOSEPH F. SNOOK.

Witnesses to the Instrument:
(Signed) MIGUEL DE PEDRORENA,
(Signed) EDWARD BEALE, *Lieut. U. S. Navy.*
(Signed) JUAN J. WARNER.

On the same date, Doña Guadalupe Alvarado, wife of the vendor, José Maria Orosco, being present, having understood the contract executed by her husband, she said that it was by her own wish.

(Signed) H. D. FITCH.
(Signed) JUAN J. WARNER,
(Signed) MIGUEL DE PEDRORENA,
(Signed) PEDRO PABLO PONCIO.

Filed in office Sept. 7th, 1852.
(Signed) GEO. FISHER, *Secretary.*
[REC. CXCV, D. T., 1855.]—3

Opinion of the Board delivered by Commissioner Alpheus Felch.

GEORGE W. HAMBLY
vs.
THE UNITED STATES.

For the place called Güejeta y Cañada de Palomia," in San Diego county, containing three square leagues of land.

The petitioner claims under a deed alleged to have been executed by José Maria Orosco to him before competent authority on the fifth day of February, 1847, which deed, duly proved, is given in evidence. The claimant has also proved by the original document a grant of the land described in the deed, and claimed in the case, to said Orosco by Governor Pio Pico, on the 20th of September, 1845, the proceedings of that body. The approval was had on the third day of June, 1846.

The condition of the grant required a house to be built, and to be inhabited within a year. The performance of this condition is proved by the testimony of J. J. Warner.

The land granted is described by a designation of its boundaries, and a reference to the map which constitutes a part of the expediente, no sobrante being reserved. With the aid of the map, we think the description sufficient to identify the land, and give it location and boundaries. The claimant is entitled to a confirmation. Confirmed.

Filed in office, Jan'y 24th, 1854.

(Signed) GEO. FISHER, *Sec'y.*

Decree of Confirmation.

GEORGE W. HAMBLY
vs.
THE UNITED STATES.

In this case, on hearing the proofs and allegations, it is adjudged by the commission, that the claim of the said petitioner is valid, and it is therefore hereby decreed that the same be confirmed.

The land, of which confirmation is hereby made, is the same known by the name of Güejeta y Cañada de Palomia, situated in San Diego county, and is occupied by said claimant, bounded and described as follows, to wit: Bounded by the "Mesa de Pamo," "Potrero de Pauma," and the mountains, agreeably to the map making a part of the espediente, in the archives deposited in the office of the United States surveyor general for California, a traced copy of which is on file in this case, and to which reference is to be had for more certain description of the premises hereby confirmed, said land containing three square leagues, more or less.

(Signed) ALPHEUS FELCH,
(Signed) THOMPSON CAMPBELL,
(Signed) R. AUG. THOMPSON.

Filed in office, January 24th, 1854.

(Signed) GEO. FISHER, *Secretary.*

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

I, George Fisher, Secretary to the Board of Commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing thirty-seven pages, numbered from 1 to 37, both inclusive, to contain a true, correct and full transcript of the record of the proceedings and of the decision of the said board, of the documentary evidence and of the testimony of the witnesses upon which the same is founded, in file in this office, in case No. 325 on the docket of the said board, wherein George W. Hambly is the claimant against the United States, for the place known by the name of "Güejete y Cañada de Palomea."

In testimony whereof, I hereunto set my hand and affix my private seal, (not having a seal of office,) at San Francisco, [G. F.] California, this twelfth day of September, A. D. 1854, and of the independence of the United States of America the seventy-ninth.

GEORGE FISHER, *Sec'y.*

UNITED STATES DISTRICT COURT,
Southern District of California.
CLERK'S OFFICE, LOS ANGELES.

I, Charles E. Carr, clerk of the district court of the United States for the Southern district of California, do hereby certify that the foregoing 38 pages, numbered from 1 to 38, both inclusive, contain a full, true, and correct copy of transcript No. 325, filed in this office, wherein Geo. W. Hamley is appellee and the United States are appellants, for "Güejete y Cañada de Palomea."

In testimony whereof, I have hereunto set my hand and affixed the seal of said court, at Los Angeles, California, this 20th [L. S.] day of December, A. D. 1855, and of the independence of the United States of America the eightieth.

C. E. CARR, *Cl'k.*

UNITED STATES DISTRICT COURT,
Southern District of California.
CLERK'S OFFICE, LOS ANGELES.

GEO. W. HAMLEY, appellee, vs. THE UNITED STATES, appellants. } Docket No. 84.—Transcript No. 325.

Be it remembered, that on the day of A. D. 185 , in the district court of the United States for the Southern district of California, the following proceedings were had, to wit.:

A duly certified transcript of the proceedings and decision, and the papers and evidence upon which the said decision was founded, of the commissioners to ascertain and settle the private land claims in the

is therefore hereby decreed that the same be confirmed. The land of which confirmation is hereby made, is the same known by the name of 'Güejita y Cañada de Palomia,' situated in San Diego county, and is occupied by said claimant, bounded and described as follows, to wit: Bounded by the Mesa de Pamo, 'Potrero de Pauma,' and the mountains, agreeably to the map, making a part of the Expediente in the archives, deposited in the office of the United States surveyor general for California, a traced copy of which is on file in this case, and to which reference is to be had for more certain description of the premises hereby confirmed—said land containing three square leagues more or less.

(Sgd.) ALPHEUS FELCH,
(Sgd.) THOMPSON CAMPBELL,
(Sgd.) R. AUG. THOMPSON."

That, thereafter, to wit, on the 20th day of September, A. D. 1854, a duly certified transcript of the said decree and proceedings, and the papers and evidence on which it was founded in said cause, was filed in the office of the clerk of the district court of the United States, for the southern district of California, and marked No. 84, (Transcript, No. 325); reference to which it is prayed may be had and made a part of this petition.

That, on the 30th day of Aug. A. D. 1854, the honorable Caleb Cushing, Attorney General of the United States, received a duly certified duplicate of said transcript of said final decree and proceedings of said commissioners in said cause, (No. 325,) and the papers and evidence on which it was founded.

That thereafter, to wit, on the 10th day of January, A. D. 1855, the said Attorney General of the United States filed, or caused to be filed, on behalf of the United States, a notice with the said clerk of said district court, for the southern district of California, that the appeal in said cause of George W. Hamley vs. The United States, from the decision of the said commissioners, to ascertain and settle the private land claims in the State of California, in the district court of the United States for the southern district of California, would be prosecuted by the United States.

Your petitioner further represents, that the said land, claimed as aforesaid, is within the jurisdiction of this honorable court.

And your petitioner further represents and insists, that the said decree of said commissioners is erroneous, and ought to be reviewed, reversed and set aside, for many errors and imperfections of law and evidence apparent in said certified transcript of said cause, now on appeal from said commissioners to this honorable court.

And your petitioner further represents, that the said claim is invalid, and the said decree erroneous, on the following grounds:

1. And the said attorney denies all and singular, each and every allegation, in the said petition of said claimant to said commissioners of said date. And he further denies that any grant for said land was ever

made, as alleged in said petition. And he denies further, that the said claimant has shown any or sufficient evidence of the validity of the said claim.

II. That the said alleged grant of Pio Pico was made in violation of the 4th article of the colonization law of Mexico, of the 18th of August, A. D. 1824, in this, that the land granted, as alleged by claimant, was and is within ten leagues of the sea-coast; and there is no evidence shown by claimant that the supreme general executive power of Mexico previously approved of the colonization of the public lands in Upper California lying within ten leagues of the sea-coast.

And it is denied that such previous consent of said supreme general executive power of Mexico in such case was ever had.

III. That, at the date of the said alleged grant, the said land claimed as aforesaid was occupied by, and is in the possession of, the Missions of the Territory of Upper California; and it was held and occupied particularly by the Mission of San Luis Rey, and could not, therefore, be colonized.

IV. That the said alleged grant has not the conditions required by, and is not made in entire conformity with, the laws of Mexico, of the 18th day of August, A. D. 1824, and the regulations for the colonization of the territories of Mexico, of the 21st of November, A. D. 1828.

V. That the said alleged grant of said land of the date of the 20th September, 1845, is not executed upon the lawful stamped paper.

VI. That the description of the locality, extent, and boundaries of the said tract of land in said alleged grant, is vague and indefinite, and the map referred to therein is also vague and indefinite, and that the said alleged grant is void for uncertainty.

VII. That there is no evidence that the said alleged grant, of said date of the 20th of September, 1845, was ever approved by the departmental assembly of California or the supreme government of Mexico.

VIII. That the said claimant fails to produce the grant of the date of the 23d of September, 1845, if he ever received one, which is referred to in the evidence in said transcript, as having been approved by the departmental assembly of California on the 3d of June, 1846.

IX. That there is no evidence that the said alleged grantee, José Maria Orosio, performed the conditions of the said alleged grant, particularly the 2d condition, which required him to solicit the respective magistrate to give him the juridical possession of the said tract of land, in virtue of the said grant, and it is denied that the said José Maria Orosio ever asked for or received the juridical possession of the said tract of land.

X. That the said original grantee, José Maria Orosio, not having performed the conditions of the said alleged grant, and not having asked for or received the juridical possession of the said land, he had no such lawful right or title in and to the said land, which he could lawfully alienate to said claimant, on the 5th of February, 1847, as alleged.

XI. That the said claimant fails to show any definitive grant or title to said land.

XII. That there is no sufficient evidence that the said alleged original grantee of said land, José Maria Orosio, built a house upon the said tract of land within one year from the date of the said alleged grant, and that it was inhabited, and that he cultivated the said land. And it is denied that the said Orosio built a house upon the said tract of land, within one year from the date of the said alleged grant, and that it was inhabited, and that he cultivated the said land.

And no sufficient proof having been made by said claimant of the allegations of his said petition, or in support of his said claim filed as aforesaid, no decree ought to have been made or grounded thereon, but the said petition ought to have been dismissed and said claim rejected by said commissioners, upon the grounds aforesaid. And the said claimant having no valid right or title derived from the Spanish or Mexican government to the land claimed by him as aforesaid, the lawful right or title in and to the said land was acquired by, and it now belongs to, the said United States, by virtue of the treaty of peace, friendship, limits and settlement, with the Republic of Mexico, dated at the city of Guadalupe Hidalgo, February 2d, A. D. 1848.

Wherefore, the said Pacificus Ord, attorney for the United States for the southern district of California, for and in behalf of the United States, by reason of the premises and in pursuance of the act of Congress, entitled "An act to ascertain and settle the private land claims in the State of California," approved March 3d, A. D. 1851; and the laws and statutes in such case made and provided, prays that the said George W. Hamley may be served with a copy of this petition, and that this honorable court will review the said decision or final decree of confirmation of said commissioners, to ascertain and settle the private land claims in the State of California, and decide on the validity of the said claim of George W. Hamley for said land claimed and confirmed as aforesaid, and that the same may be decreed invalid; and all such other orders, judgments or decrees, as may be just, with costs and general relief.

P. ORD,
Attorney of the United States,
for the southern district of California.

Filed Aug. 13th, 1855.

C. E. CARR, *Cl'k.*

In the United States District Court for the southern district of California.

Answer of Appellee.

Answer.

THE UNITED STATES, appellants,
vs.
GEORGE W. HAMLEY, appellee. } No. 84.

George W. Hamley, appellee, appears by his attorneys, and for answer to the petition of the United States filed herein, says:

That his to the land called "Güejito y Cañada de Palomia," as set forth and described in his petition to the United States Board of Commissioners, and in the documentary and other evidence in this case, is a good and valid title; and he prays this honorable court to affirm the decision of the Board of Commissioners, and to decree his title to be valid.

HALLECK, PEACHY & BILLINGS,
Att'ys for Appellee.

Los Angeles, Sept. 22d, 1855.

Filed Sept. 24th, 1855. C. E. CARR, *Cl'k.*

United States District Court for the southern district of California.

Decree.

GEORGE W. HAMLEY, appellee, ads. THE UNITED STATES, appellant. } No. 84.—"Güejito."

This cause coming on to be heard on an appeal from the decision of the commissioners, to ascertain and settle private land claims in the State of California, under an act of Congress approved March 3, 1851, on a transcript of the proceedings and decision and the papers and evidence on which said decision was founded; and it appearing to the court that the transcript and notice of appeal has been duly filed, according to law, and counsel for the respective parties having been heard: It is ordered, adjudged and decreed, that the claim of the appellee to the land described in this grant, on file in this case, is a good and valid claim, and the same is hereby confirmed to the extent of three square leagues, provided said quantity hereby confirmed be contained within the limits called for in said grant; and in case there be a less quantity, then the claim of the appellee to such less quantity is hereby confirmed.

ISAAC S. K. OGIER,
U. S. Dist. judge for the southern district of California.

Filed 26th September, 1855.
(Signed) C. E. CARR, *Cl'k.*

In the United States District Court for the southern district of California.

Special term, Los Angeles, Sept., 1855.

GEO. W. HAMLEY, app'ee, ads. THE UNITED STATES, app't. } No. 84.—Transcript No. 325.

On motion of P. Ord, attorney of the United States for the southern district of California, it is ordered by the court that an appeal be granted the United States to the Supreme Court of the United States, from the